

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

TUESDAY, THE TWENTY FIRST DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT
THE HON'BLE SRI DEVINDER GUPTA, THE CHIEF JUSTICE
and
THE HON'BLE SRI JUSTICE C.V.RAMULU

WRIT APPEAL NO : 1286 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order
dated 29/03/2004 in WP NO. 19972 OF 2002 on the file of the High
Court.)

Between:

A.Ramanamma, w/o late Tirupalaiah,
r/o Koruturu, FP Shop Dealer of Koruturu Village, Indukurpet Mandal,
Nellore District.

..... APPELLANT

AND

1. The Joint Collector, Nellore.
2. The Revenue Divisional Officer, Nellore.
3. The Mandal Revenue Officer, Indukurpet, Nellore District.

.....RESPONDENTS

Counsel for the Appellant: Mr.V.S.R.MURTHY

Counsel for the Respondents: GP FOR CIVIL SUPPLIES.

The Court made the following :

ORAL JUDGMENT:

(per The Honourable Sri Devinder Gupta, the Chief Justice)

The appeal is by a fair-price shop dealer of Koruturu village. The appellant, after demise of her husband, was appointed as fair price shop dealer. Certain irregularities were noticed when complaints received by the authorities were examined. Pursuant to show-cause notice, explanation was submitted by the appellant, and, by proceedings dated: 20.2.2002, fine was imposed. After the fine was deposited, the Joint Collector issued a notice to the appellant calling upon her to show cause why the order of the second respondent shall not be reviewed. Thus, the Joint Collector exercised the *suo motu* power and proceeded to pass an order on 5.8.2002 cancelling the authorization issued in favour of the appellant. Assailing the said order, Writ Petition was filed.

Grounds to challenge the order passed by the Joint Collector, inter alia, also stated as regards the jurisdiction of the Joint Collector to exercise the *suo motu* power of cancellation of dealership under the Andhra Pradesh Scheduled Commodities (Regulation of Distribution by Card System) Order, 1973 (for short "the Order"). Writ Petition was dismissed holding that under Clause 2© of the Order, 'Collector' is defined as 'District Collector' or the 'Joint Collector'. Under the Andhra Pradesh District Collector's Powers (Delegation) Act, 1961, powers are delegated to Joint Collectors with regard to the items of civil supplies whereas the procurement work was retained by the District Collector. Therefore, in view of the delegation of powers, Joint Collector was authorized to exercise the powers of District Collector.

Order of learned Single Judge dismissing the Writ Petition was challenged in the Appeal, and, in the Appeal, learned counsel for the appellant pointed out the powers which Joint Collector can exercise under Clause 17 of the Order against the order of appointing authority. Certain powers under the Order, 1973 have to be exercised by the Collector and some powers can be exercised by other officers. "Collector" as defined in clause 2© means the District Collector or Joint Collector of the District, or as the case may be, the Chief Rationing Officer, Hyderabad. Clause 3-A reserves to the District Collector *suo motu* power, which can be exercised by him to have supervisory control. It also authorizes the District Collector and the Chief Rationing Officer to go into the question of adequacy of punishment etc., and, also to suspend and revoke the authorization. Question is whether this power can be exercised by the Joint Collector or not, which, precisely, has been raised in this Appeal and the learned counsel for the appellant has placed strong reliance upon the Circular issued to all the Collectors on 29.10.1987 in PDS.3/95/87 by the Commissioner of Civil Supplies, stating that the Joint Collector, although a superior officer, but, cannot exercise *suo motu* power of suspending or cancelling the authorization of fair price shop dealer, except, while passing orders in the capacity of appellate authority under Clause 17 of the Order.

Learned counsel for the respondents was asked to have instructions as to how and under what circumstances, Joint Collector exercised the *suo motu* power. It was also pointed out that the Joint Collector could pass orders of suspension or cancellation of authorization only in the capacity of appellate authority under Clause 17 of the Order and could not have exercised *suo motu* powers.

Learned counsel for the respondents, rightly and frankly so, today concedes that in view of the position as explained above, the Joint Collector could not have passed the said order, and, has no objection, in case, the order passed on 5.8.2002 is cancelled, and, prays that liberty be reserved to the respondents to pass appropriate orders, in case, appellate authority competent to do so, would like to exercise the power.

In view of the above, the Writ Appeal is allowed and the impugned order of learned Single Judge is set aside. Writ Petition is allowed and the order impugned in the Writ Petition passed on 5.8.2002 by the Joint Collector is set aside with liberty reserved as aforementioned. No costs.

DEVINDER GUPTA, C.J.

21.9.2004.

C.V.RAMULU, J.

VR.

TO

1. The Joint Collector, Nellore.
2. The Revenue Divisional Officer, Nellore.
3. The Mandal Revenue Officer, Indukurpet, Nellore District.

4. Two CCs to Government Pleader for Civil Supplies, High Court Buildings, Hyderabad (OUT).
5. Two CD copies.